

**REVENUE DEPARTMENT[701]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” and Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These proposed amendments update the Department’s rules regarding the application of the solar energy system tax credit to both individual and corporation income taxes in order to comply with 2015 Iowa Acts, chapter 124; 2016 Iowa Acts, House File 2459; and 2016 Iowa Acts, House File 2468. These amendments also include nonsubstantive changes to clarify the rules.

Interested persons may make written comments on the proposed amendments on or before October 18, 2016. Written comments on the proposed amendments should be directed by mail to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to [ben.clough@iowa.gov](mailto:ben.clough@iowa.gov). Persons who wish to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, by telephone at (515)725-2176 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 18, 2016.

The Department finds that coupling with the federal statute through at least 2021 and other changes to the solar energy system tax credit will reduce projected general fund revenue each year through fiscal year 2032.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 422.11L as amended by 2015 Iowa Acts, chapter 124; 2016 Iowa Acts, House File 2459; and 2016 Iowa Acts, House File 2468; and Iowa Code section 422.33 as amended by 2015 Iowa Acts, chapter 124.

The following amendments are proposed.

ITEM 1. Amend rule 701—42.48(422) as follows:

**701—42.48(422) Solar energy system tax credit.** For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for both residential property and business property located in Iowa. The solar energy system must be installed on or after January 1, 2012, to be eligible for the credit.

**42.48(1) Property eligible for the tax credit.** The following property located in Iowa is eligible for the tax credit:

*a. to d.* No change.

**42.48(2) Relationship between the Iowa and federal credits.** As stated in subrules 42.48(3) to 42.48(5) below, the Iowa credit is a percentage of the applicable federal credit. Taxpayers who apply for the Iowa credit must also claim the corresponding federal credit. Availability of the Iowa credit for installations in a given year is dependent upon availability of the federal credit. If the federal credits referenced in this subrule are extended, the Iowa tax credit will also be extended, unless the Iowa tax credit is otherwise rescinded by the Iowa legislature.

~~42.48(2)~~ **42.48(3)** *Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014.* The credit is equal to the sum of the following federal tax credits:

*a. to c.* No change.

*d.* Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs ~~42.48(2)~~ *“a”* ~~42.48(3)~~ *“a”* and *“b”* cannot exceed \$3,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs ~~42.48(2)~~ *“e”* ~~42.48(3)~~ *“c”* and *“d”* cannot exceed \$15,000 for a tax year.

The federal residential energy efficient tax credits are allowed for installations that are completed and the federal energy tax credits for solar energy systems are allowed for installations that are placed in service before January 1, 2014. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was placed in service in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was placed in service before January 1, 2012.

~~42.48(3)~~ **42.48(4)** *Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but and installed before January 1, 2017 2016.* The credit is equal to the sum of the following federal tax credits:

*a. to c.* No change.

*d.* Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs ~~42.48(3)~~ *“a”* ~~42.48(4)~~ *“a”* and *“b”* cannot exceed \$5,000 for a tax year per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to paragraphs ~~42.48(3)~~ *“e”* ~~42.48(4)~~ *“c”* and *“d”* cannot exceed \$20,000 for a tax year per separate and distinct installation. “Separate and distinct installation” is described in subrule 42.48(7).

The federal residential energy efficient tax credits are allowed for installations that are completed on or before December 31, 2016, and the federal energy tax credits for solar energy systems are allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations that are either completed or placed in service before January 1, 2017. If the federal residential energy property tax credits or the federal energy credits are extended to installations completed or placed in service on or after January 1, 2017, the Iowa tax credit will also be extended.

~~42.48(5)~~ **42.48(5)** *Calculation of credit for systems installed on or after January 1, 2016.* The credit is equal to the sum of the following federal tax credits:

*a.* Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.

*b.* Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.

*c.* Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

*d.* Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs ~~42.48(5)~~ *“a”* and *“b”* cannot exceed \$5,000 per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to paragraphs ~~42.48(5)~~ *“c”* and *“d”* cannot exceed \$20,000 per separate and distinct installation. The term “separate and distinct installation” is described in subrule 42.48(7).

~~42.48(4)~~ **42.48(6)** *Application for the tax credit. Tax credit award limitations.* No more than \$1.5 million of tax credits for solar energy systems are allowed for tax years 2012 and 2013. The \$1.5 million

cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax. No more than \$4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The \$4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The following limitations apply:

*a. Aggregate tax credit award limit.* No more than \$5 million of tax credits will be issued for calendar years beginning on or after January 1, 2015. The \$4.5 million annual tax credit allocation cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax and in rule 701—58.22(422) for franchise tax. Awards of tax credits are made on a first-come, first-served basis.

*b. Allocation for residential installations.* At Beginning with tax year 2014, at least \$1 million of the \$4.5 million annual tax credit allocation cap for the 2014 to 2016 each tax years year is reserved for residential installations. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations.

*c. Rollover of unallocated credits.* If Beginning with calendar year 2014, if the \$4.5 million annual tax credit allocation cap for the 2014 and 2015 tax years is not reached, the remaining amount below \$4.5 million the cap will be allowed to be carried forward to the following tax year and shall not count toward the cap for that year.

**42.48(7) How to apply for the credit.** Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit may be submitted through the Tax Credit Award, Claim, and Transfer Administration System (CACTAS), which applicants may access through the department's Web site.

*a. Separate and distinct installation requirement.* A taxpayer may ~~claim~~ apply for one tax credit for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal residential energy property credit or the federal energy credit as provided in subrule ~~42.48(3)~~ 42.48(1).

(2) Each installation must have separate metering.

*b. Application deadline.* ~~In order to request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation.~~ For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. Notwithstanding the foregoing sentence, the following extensions are applicable to installations completed in 2014 and 2015:

(1) Solar energy systems installed during the 2014 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2015. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2016.

(2) Solar energy systems installed during the 2015 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2016. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2017.

*c. Contents of the application.* The application must contain the following information:

(1) Name, address and federal identification number of the taxpayer.

(2) Date of installation of the solar energy system.

(3) The kilowatt capacity of the solar energy system.

(4) Copies of invoices or other documents showing the cost of the solar energy system.

(5) Amount of federal income tax credit for the solar energy system.

(6) Amount of Iowa tax credit requested.

(7) ~~For nonresidential installations,~~ All applicants must provide a completion sheet from a local utility company or similar documentation verifying that installation of the system has been placed in

service completed. For nonresidential installations, the completion sheet must indicate the date the installation was placed in service. If a completion sheet is not available from the local utility company or similar documentation is not available, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

(8) For leased solar energy systems where the lessor is the applicant, the lessor should also provide a copy of the solar energy system lease that indicates the property that is the subject of the lease and the parties to the lease agreement. If the lessor is entitled to the Iowa solar energy system tax credit, the lessee will not be entitled to such a credit.

*d. Waitlist.* If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. The applications will be prioritized based on the date the department received the applications and shall first be funded in the order listed on the waitlist. With the exception of the extension described in subparagraphs 42.48(7) "b"(1) and (2) above, only valid applications filed by the taxpayer by May 1 of the year following the year of the installation of the solar energy property shall be eligible for the waitlist. If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year, unless the corresponding federal credit is extended.

Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to subrule 42.48(7) in a future year is contingent upon the availability of tax credits in that particular year.

*e. e. Certificate issuance.* If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate number.

*f. Claiming the tax credit.* The solar energy system tax credit will be claimed on Form IA 148, Tax Credits Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must include with any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

If the department receives applications for tax credits in excess of the \$1.5 million available for 2012 and 2013 and the \$4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 or \$4.5 million of tax credits available, the department shall establish a wait list for the next year's allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$4.5 million cap of tax credit is reached for 2016, no applications in excess of the \$4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the \$4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

*g. Refundability.* Any credit in excess of the taxpayer's tax liability is nonrefundable.

*h. Carryforward.* Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.

*i. Transferability.* The credit may not be transferred to any other person.

~~42.48(8)~~ *Unavailable to those eligible for renewable energy tax credit.* A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422,476C) is not eligible for the solar energy system tax credit.

~~42.48(5)~~ **42.48(9)** *Allocation of tax credit to owners of a business entity.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal

Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years beginning on or after January 1, 2014 to 2016.

This rule is intended to implement Iowa Code section 422.11L as amended by ~~2014 Iowa Acts, Senate File 2340, and 2014 Iowa Acts, House File 2473, section 77~~ 2015 Iowa Acts, chapter 124, and 2016 Iowa Acts, House File 2468.

ITEM 2. Amend rule 701—52.44(422) as follows:

**701—52.44(422) Solar energy system tax credit.** For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for business property located in Iowa. The solar energy system must be installed on or after January 1, 2012, to be eligible for the credit.

**52.44(1)** No change.

**52.44(2)** Relationship between the Iowa and federal credits. As stated in subrules 52.44(3) to 52.44(5) below, the Iowa credit is a percentage of the applicable federal credit. Taxpayers who apply for the Iowa credit must also claim the corresponding federal credit. Availability of the Iowa credit for installations in a given year is dependent upon availability of the federal credit. If the federal credits described in this subrule are extended, the Iowa tax credit will also be extended, unless the Iowa tax credit is otherwise rescinded by the Iowa legislature.

~~52.44(2)~~ **52.44(3)** Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014. The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(2) "~~a~~" 52.44(3) "a" and "b" cannot exceed \$15,000 for a tax year.

~~The federal energy tax credits for solar energy systems are allowed for installations that are placed in service before January 1, 2014. The solar energy system must be placed in service on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.~~

EXAMPLE: A taxpayer reported a \$9,000 energy credit on the 2011 federal return due to an installation of a solar energy system that was placed in service in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was placed in service before January 1, 2012.

~~52.44(3)~~ **52.44(4)** Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but ~~and installed~~ before January 1, 2017 2016. The credit is equal to the sum of the following federal tax credits:

a. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(3) "~~a~~" 52.44(4) "a" and "b" cannot exceed \$20,000 ~~for a tax year~~ per separate and distinct installation. The term "separate and distinct installation" is described in subrule 52.44(7).

~~The federal energy tax credit for solar energy systems is allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations~~

placed in service before January 1, 2017. If the federal energy tax credit is extended to installations placed in service on or after January 1, 2017, the Iowa credit will also be extended.

52.44(5) Calculation of credit for systems installed on or after January 1, 2016. The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(5)“a” and “b” cannot exceed \$20,000 per separate and distinct installation. “Separate and distinct installation” is described in subrule 52.44(7).

~~52.44(4)~~ 52.44(6) Application for the tax credit. Tax credit award limitations. No more than \$1.5 million of tax credits for solar energy systems are allowed for tax years 2012 and 2013. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax. No more than \$4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The \$4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The following limitations apply:

a. Aggregate tax credit award limit. No more than \$5 million of tax credits will be issued for calendar years beginning on or after January 1, 2015. The \$4.5 million annual tax credit allocation cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax and in rule 701—58.22(422) for franchise tax. Awards are made on a first-come, first-served basis.

b. Allocation for residential installations. At Beginning with tax year 2014, at least \$1 million of the \$4.5 million annual tax credit allocation cap for the 2014 to 2016 each tax years year is reserved for residential installations. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations.

c. Rollover of unallocated credits. If Beginning with calendar year 2014, if the \$4.5 million annual tax credit allocation cap for the 2014 and 2015 tax years is not reached, the remaining amount below \$4.5 million the cap will be allowed to be carried forward to the following tax year and shall not count toward the cap for that tax year.

52.44(7) How to apply for the credit. Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit may be submitted through the Tax Credit Award, Claim, and Transfer Administration System (CACTAS), which applicants may access through the department’s Web site.

a. Separate and distinct installation requirement. A taxpayer may ~~claim~~ apply for one tax credit for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal energy credit as provided in subrule ~~52.44(3)~~ 52.44(1).

(2) Each installation must have separate metering.

b. Application deadline. ~~In order to request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation.~~ For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. Notwithstanding the foregoing sentence, the following extensions are applicable to installations completed in 2014 and 2015:

(1) Solar energy systems installed during the 2014 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2015. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2016.

(2) Solar energy systems installed during the 2015 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2016. Valid and complete

applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2017.

c. *Contents of the application.* The application must contain the following information:

- (1) Name, address and federal identification number of the taxpayer.
- (2) Date of installation of the solar energy system.
- (3) The kilowatt capacity of the solar energy system.
- (4) Copies of invoices or other documents showing the cost of the solar energy system.
- (5) Amount of federal income tax credit for the solar energy system.
- (6) Amount of Iowa tax credit requested.
- (7) A completion sheet from a local utility company or similar documentation verifying that installation of the system has been ~~placed in service~~ completed. The completion sheet must indicate the date the system was placed in service. If a completion sheet ~~is not available~~ from the local utility company or similar documentation is not available, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

(8) For leased solar energy systems where the lessor is the applicant, the lessor should also provide a copy of the solar energy system lease that indicates the property that is the subject of the lease and the parties to the lease agreement. If the lessor is entitled to the Iowa solar energy system tax credit, the lessee will not be entitled to such a credit.

d. *Waitlist.* If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. The applications will be prioritized based on the date the department received the applications and shall first be funded in the order listed on the waitlist. With the exception of the extension described in subparagraphs 52.44(7) "b"(1) and (2) above, only valid applications filed by the taxpayer by May 1 of the year following the year of the installation of the solar energy property shall be eligible for the waitlist. If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year, unless the corresponding federal credit is extended.

Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to subrule 52.44(7) in a future year is contingent upon the availability of tax credits in that particular year.

e. e. *Certificate issuance.* If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate ~~number~~.

f. *Claiming the tax credit.* The solar energy system tax credit will be claimed on Form IA 148, Tax Credits Schedule. ~~Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier.~~ The taxpayer must include federal Form 3468, Investment Credit, with any Iowa tax return claiming the solar energy system tax credit.

If the department receives applications for tax credits in excess of the \$1.5 million available for 2012 and 2013 and the \$4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 or \$4.5 million of tax credits available, the department shall establish a wait list for the next year's allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$4.5 million cap of tax credit is reached for 2016, no applications in excess of the \$4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the \$4.5 million cap had already been

reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

*g. Refundability.* Any credit in excess of the taxpayer's tax liability is nonrefundable.

*h. Carryforward.* Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.

*i. Transferability.* The credit may not be transferred to any other person.

~~d. 52.44(8)~~ *Unavailable to those eligible for renewable energy credit.* A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—52.27(422,476C) is not eligible for the solar energy system tax credit.

~~52.44(5)~~ **52.44(9)** *Allocation of tax credit to owners of a business entity.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years beginning on or after January 1, 2014 ~~to 2016~~.

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2014 Iowa Acts, House File 2473, section 76~~ 2015 Iowa Acts, chapter 124, and 2016 Iowa Acts, House File 2468.